

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES E. COHAN,
 Plaintiff,

v.

JOSEPH LOMBARDO, *et al.*,
 Defendants.

Case No. 2:17-cv-01651-JCM-NJK

Order

[Docket No. 38]

Pending before the Court is Plaintiff's motion to be allowed to refile a claim. Docket No. 38. Plaintiff previously filed two amended complaints in this action. Docket Nos. 14, 22-1. Plaintiff's first amended complaint was dismissed with leave to amend. Docket No. 16. The undersigned issued a report and recommendation that Plaintiff's second amended complaint and this case be dismissed. Docket No. 23. The order adopting the report and recommendation noted that Plaintiff did not object to the dismissal without prejudice. Docket No. 30 at 2; *see also* Docket No. 24. Plaintiff previously filed a motion to be allowed to refile a claim. Docket No. 34. The motion was denied. Docket No. 36.

Dismissal of a case without prejudice preserves a plaintiff's right to refile his claim. *See, e.g., Com. Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (internal citations omitted). However, after a case has been dismissed without prejudice, a plaintiff must file his complaint in a **new case and not refile it in the dismissed case**. *E.g., Frost v. Nat'l Sec. Agency*, 2018 WL 6822632, *2 (N.D. Cal. 2018); *Stine v. Wiley*, 2010 WL 3516634, *1 (D. Colo. 2010).

Accordingly, Plaintiff's motion to refile a claim in this case is **DENIED**. Docket No. 38.

IT IS SO ORDERED.

Dated: October 2, 2024

Nancy J. Koppe
 United States Magistrate Judge